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Arent Fox

Brett G. Kappel

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September 13, 2012

VIA HAND DELIVERY

Jeff S. Jordan
Supervisory Attorney
Complaints Examination &
Legal Administration
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 6609 – Friends of Connie Mack and Craig Engle, as Treasurer

Dear Mr. Jordan:

This response, including attached exhibits, is submitted on behalf of Friends of Connie Mack and Craig Engle, in his official capacity as treasurer (collectively “the Committee”), in the above-referenced matter. We write in response to the complaint filed in this matter on July 20, 2012 by Mr. Clyde M. Collins, Jr. For the reasons set forth herein, we respectfully request that the Commission exercise its prosecutorial discretion and dismiss the complaint.

Mr. Collins's complaint alleges that the Committee violated the Federal Election Campaign Act's (FECA) prohibition on using campaign funds for personal use, including clothing purchases of more than *de minimis* value. See 2 U.S.C. §§ 439a(b)(1)-(2)(B); 11 C.F.R. § 113.1(g)(1)(i)(C). Specifically, the complaint alleges that the Committee violated the personal use prohibition when a campaign employee purchased clothing at a Brooks Brothers store in Jacksonville, Florida using a campaign credit card.

The pertinent facts are as follows. An individual employed by the Mack campaign made two clothing purchases at the Jacksonville, Florida Brooks Brothers store and charged the purchases to a campaign American Express card. The charges were reported on the Committee's July 15, 2012 Quarterly Report. See Exhibit A. When the error was brought to the Committee's attention on July 17, 2012, the Committee required that the employee immediately reimburse the campaign for the reported charges, as well as additional personal charges uncovered as a result of a review of all charges made by that employee. The employee promptly reimbursed the campaign a total of \$706.82 on July 20, 2012. The Committee disclosed the employee's repayment on its Twelve-Day Pre-Primary Report filed on August 2, 2012. See Exhibit B. Significantly, the complaint in this matter was received by the Committee on July 30, 2012 -

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nearly two weeks *after* the Committee had already taken remedial action with regard to the inappropriate charges.

In similar cases involving alleged violations of the personal use prohibition based on the purchase of clothing with campaign funds, the Commission has repeatedly exercised its prosecutorial discretion and dismissed complaints when the campaign committee was reimbursed as soon as they learned of the alleged violation and/or before a complaint was filed. *See, e.g.*, MUR 6140, First General Counsel's Report at 7. In that matter, the Commission also observed that given the amounts in violation, which ranged from \$145 to \$1,089, any civil penalties would be "so low that it would not merit the further use of Commission resources to pursue this matter." *Id.* *See also* Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12545, 12545-56 (March 16, 2007)("[T]he Commission has broad discretion to . . . dismiss matters that do not merit the additional expenditure of Commission resources.").

The same factors militate in favor of dismissal here. As in MUR 6140, the Committee acted immediately as soon as it discovered the charges were inappropriate and had already taken remedial action nearly two weeks *before* it learned that the instant complaint had been filed. The total amount of the inappropriate charges was only \$706.82. In light of these circumstances, the Committee respectfully requests that the Commission exercise its discretion under *Heckler v. Chaney*, 470 U.S. 821 (1985) and dismiss the referenced complaint.

Sincerely,



Brett G. Kappel, Esq.

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EXHIBIT A

FEC FORM 3

REPORT OF RECEIPTS AND DISBURSEMENTS For An Authorized Committee

RECEIVED SECRETARY OF THE SENATE PUBLIC RECORDS 12 JUL 13 PM 4:26 Office Use Only

1. NAME OF COMMITTEE (In full) TYPE OR PRINT Example: If typing, type over the lines.

12FE4M5

Friends of Connie Mack, Inc.

ADDRESS (number and street)

P.O. Box 519

Check if different than previously reported. (ACC)

Naples

FL

34106

2. FEC IDENTIFICATION NUMBER

C00391243

CITY

STATE

ZIP CODE

STATE DISTRICT

3. IS THIS REPORT

NEW (N)

OR

AMENDED (A)

FL

00

4. TYPE OF REPORT (Choose One)

(a) Quarterly Reports:

- April 15 Quarterly Report (Q1)
July 15 Quarterly Report (Q2)
October 15 Quarterly Report (Q3)
January 31 Year-End Report (YE)

Termination Report (TER)

(b) 12-Day PRE-Election Report for the:

- Primary (12P) General (12G) Runoff (12R)
Convention (12C) Special (12S)

Election on MM/DD/YYYY in the State of

(c) 30-Day POST-Election Report for the:

- General (30G) Runoff (30R) Special (30S)

Election on MM/DD/YYYY in the State of

5. Covering Period

MM/DD/YYYY through MM/DD/YYYY

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Craig Engle

Signature of Treasurer

Craig Engle

Date

MM/DD/YYYY 07/13/2012

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

Office Use Only

FEC FORM 3 (Revised 02/2003)

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**SCHEDULE B (FEC Form 3)
ITEMIZED DISBURSEMENTS**

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER: (check only one)

17 20a 18 20b 19a 20c 19b 21

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)
Friends of Connie Mack, Inc.

Full Name (Last, First, Middle Initial)

A. Chevron Gas

Mailing Address 4030 Boatway Road

City Fort Myers State FL Zip Code 33908

Purpose of Disbursement fuel

Candidate Name

Office Sought: House Senate President
Disbursement For: 2012 Primary General Other (specify)

State: District:

Date of Disbursement

MM / DD / YYYY
05 / 16 / 2012

Amount of Each Disbursement this Period

184.12

Transaction ID : B7955BAC79F749F9B32

[MEMO ITEM]

B. Amtrak

Mailing Address 80 Massachusetts Ave NE

City Washington State DC Zip Code 20002-4285

Purpose of Disbursement train travel

Candidate Name

Office Sought: House Senate President
Disbursement For: 2012 Primary General Other (specify)

State: District:

Date of Disbursement

MM / DD / YYYY
05 / 16 / 2012

Amount of Each Disbursement this Period

176.00

Transaction ID : B80B5C72267FF449A8B5

[MEMO ITEM]

C. Brooks Brothers

Mailing Address 4812 River City Dr. #137

City Jacksonville State FL Zip Code 32246

Purpose of Disbursement Clothing

Candidate Name

Office Sought: House Senate President
Disbursement For: 2012 Primary General Other (specify)

State: District:

Date of Disbursement

MM / DD / YYYY
05 / 16 / 2012

Amount of Each Disbursement this Period

234.33

Transaction ID : BEAC9BC86860E4ADB9B5

[MEMO ITEM]

SUBTOTAL of Disbursements This Page (optional)

0.00

TOTAL This Period (last page this line number only)

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**SCHEDULE B (FEC Form 3)
ITEMIZED DISBURSEMENTS**

Use separate schedule(s)
for each category of the
Detailed Summary Page

FOR LINE NUMBER:
(check only one)

PAGE 388 OF 408

<input checked="" type="checkbox"/> 17	<input type="checkbox"/> 18	<input type="checkbox"/> 18a	<input type="checkbox"/> 19b
<input type="checkbox"/> 20a	<input type="checkbox"/> 20b	<input type="checkbox"/> 20c	<input type="checkbox"/> 21

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)

Friends of Connie Mack, Inc.

Full Name (Last, First, Middle Initial)

A. MailChimp

Mailing Address 512 Means St.
Suite 404

City Atlanta State GA Zip Code 30318

Purpose of Disbursement
email service

Candidate Name

Category/
Type

Office Sought: House
 Senate
 President

Disbursement For: 2012
 Primary General
 Other (specify)

State: District:

Date of Disbursement

MM / DD / YYYY
04 / 12 / 2012

Amount of Each Disbursement this Period

300.00

Transaction ID : B6AB80836369F431D976

[MEMO ITEM]

Full Name (Last, First, Middle Initial)

B. Hilton Hotels

Mailing Address 1751 Hotel Plaza Blvd

City Orlando State FL Zip Code 32830

Purpose of Disbursement
lodging

Candidate Name

Category/
Type

Office Sought: House
 Senate
 President

Disbursement For: 2012
 Primary General
 Other (specify)

State: District:

Date of Disbursement

MM / DD / YYYY
04 / 12 / 2012

Amount of Each Disbursement this Period

796.17

Transaction ID : B171411E9BE8B4167BC2

[MEMO ITEM]

Full Name (Last, First, Middle Initial)

C. Brooks Brothers

Mailing Address 4812 River City Dr. #137

City Jacksonville State FL Zip Code 32246

Purpose of Disbursement
clothing

Candidate Name

Category/
Type

Office Sought: House
 Senate
 President

Disbursement For: 2012
 Primary General
 Other (specify)

State: District:

Date of Disbursement

MM / DD / YYYY
04 / 12 / 2012

Amount of Each Disbursement this Period

234.33

Transaction ID : B3C7599D15A7D42CF9EA

[MEMO ITEM]

SUBTOTAL of Disbursements This Page (optional).....

0.00

TOTAL This Period (last page this line number only).....

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EXHIBIT B

FEC
FORM 3

REPORT OF RECEIPTS
AND DISBURSEMENTS
For An Authorized Committee

12 AUG -2 PM 3:38

Office Use Only

1. NAME OF COMMITTEE (in full) TYPE OR PRINT Example: If typing, type over the lines. 12FE4M5

Friends of Connie Mack, Inc.

ADDRESS (number and street) P.O. Box 519

Check if different than previously reported. (ACC)

Naples FL 34108

2. FEC IDENTIFICATION NUMBER CITY STATE ZIP CODE STATE DISTRICT

C00391243

3. IS THIS REPORT NEW OR AMENDED

FL 00

4. TYPE OF REPORT (Choose One)

- (a) Quarterly Reports:
April 15 Quarterly Report (Q1)
July 15 Quarterly Report (Q2)
October 15 Quarterly Report (Q3)
January 31 Year-End Report (YE)

- (b) 12-Day PRE-Election Report for the:
Primary (12P) General (12G) Runoff (12R)
Convention (12C) Special (12S)

Election on 08 / 14 / 2012 In the State of FL

- (c) 30-Day POST-Election Report for the:
General (30G) Runoff (30R) Special (30S)

Election on / / In the State of

5. Covering Period 07 / 01 / 2012 through 07 / 25 / 2012

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer Craig Engle

Signature of Treasurer Date 08 / 02 / 2012

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g.

Table with 7 columns and 1 row for Office Use Only. Includes FEC FORM 3 (Revised 02/2003) label.

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**SCHEDULE A (FEC Form 3)
ITEMIZED RECEIPTS**

Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)		PAGE 80 OF 119	
	<input type="checkbox"/> 11a 12	<input type="checkbox"/> 11b 13a	<input type="checkbox"/> 11c 13b	<input checked="" type="checkbox"/> 11d 14

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
Friends of Connie Mack, Inc.

A. Full Name (Last, First, Middle Initial)
Ed Miyagishima

Mailing Address **3550 Esplanade Way #12215**

City **Tallahassee** State **FL** Zip Code **32311-3758**

FEC ID number of contributing federal political committee. C

Name of Employer **Friends of Connie Mack** Occupation **Deputy Campaign Manager**

Receipt For: 2012
 Primary General
 Other (specify)

Election Cycle-to-Date **708.82**

Date of Receipt **07 / 20 / 2012**

Transaction ID : **ABS3D2BAS41794B3F8D8**

Amount of Each Receipt this Period **708.82**

Reimbursement for Inadvertent AMEX Charges

B. Full Name (Last, First, Middle Initial)

Mailing Address

City State Zip Code

FEC ID number of contributing federal political committee. C

Name of Employer Occupation

Receipt For:
 Primary General
 Other (specify)

Election Cycle-to-Date

Date of Receipt

Amount of Each Receipt this Period

C. Full Name (Last, First, Middle Initial)

Mailing Address

City State Zip Code

FEC ID number of contributing federal political committee. C

Name of Employer Occupation

Receipt For:
 Primary General
 Other (specify)

Election Cycle-to-Date

Date of Receipt

Amount of Each Receipt this Period

SUBTOTAL of Receipts This Page (optional).....

TOTAL This Period (last page this line number only).....

708.82

708.82

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